

SENATE BILL NO. 362

INTRODUCED BY J. TESTER

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE THREATENED USE OF A PUBLIC OFFICER'S, PUBLIC EMPLOYEE'S, OR LEGISLATOR'S POSITION FOR PERSONAL OR BUSINESS BENEFIT OR ADVANTAGE; AMENDING SECTIONS 2-2-105 AND 2-2-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-2-105, MCA, is amended to read:

"2-2-105. Ethical requirements for public officers and public employees. (1) The requirements in this section are intended as rules of conduct, and violations constitute a breach of the public trust and public duty of office or employment in state or local government.

(2) Except as provided in subsection (4), a public officer or public employee may not acquire an interest in any business or undertaking that the public officer or public employee has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the public officer's or public employee's agency.

(3) A public officer or public employee may not, within 12 months following the voluntary termination of office or employment, obtain employment in which the public officer or public employee will take direct advantage, unavailable to others, of matters with which the public officer or public employee was directly involved during a term of office or during employment. These matters are rules, other than rules of general application, that the public officer or public employee actively helped to formulate and applications, claims, or contested cases in the consideration of which the public officer or public employee was an active participant.

(4) When a public employee who is a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority is required to take official action on a matter as to which the public employee has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the public employee's influence, benefit, or detriment in regard to the matter, the public employee shall disclose the interest creating the conflict prior to

1 participating in the official action.

2 (5) A public officer or public employee may not perform an official act directly and substantially
3 affecting a business or other undertaking to its economic detriment when the public officer or public
4 employee has a substantial personal interest in a competing firm or undertaking. A public officer or public
5 employee may not threaten the use of the public officer's or public employee's position for personal or
6 business benefit or advantage."

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8 **Section 2.** Section 2-2-111, MCA, is amended to read:

9 **"2-2-111. Rules of conduct for legislators.** Proof of commission of any act enumerated in this
10 section is proof that the legislator committing the act has breached the legislator's public duty. A legislator
11 may not:

12 (1) accept a fee, contingent fee, or any other compensation, except the official compensation
13 provided by statute, for promoting or opposing the passage of legislation;

14 (2) seek other employment for the legislator or solicit a contract for the legislator's services by
15 the use of the office;

16 (3) perform an official act for the legislator's personal or business benefit unless the official act
17 impacts an entire membership, occupation, or class as described in 2-2-112(4);

18 (4) threaten the use of the legislator's position for personal or business advantage."

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20 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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